

**To:** Schramm, Daniel[Schramm.Daniel@epa.gov]  
**From:** Schramm, Daniel  
**Sent:** Wed 11/29/2017 7:40:09 PM  
**Subject:** REMINDER: FOIA Production Review: Presidential Transition Briefings

If you are receiving this message, it means that last week you should have received a message like the one below regarding your office's review of last year's presidential transition briefing materials for an upcoming FOIA production. This note is just a reminder that I have asked for your feedback by COB this Friday. I have already heard from several offices, so thank you to those folks. If you have already completed your review and gotten back to me, you can disregard this note.

If I do not hear from you by COB Friday, I will assume you concur in the proposed disposition of your documents as shared with you last week. Feel free to call with any questions – 202-564-3377.

Thank you very much! Dan

Daniel Schramm

U.S. EPA Office of General Counsel

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Dear Colleagues,

The EPA is under a production deadline in Freedom of Information Act (FOIA) litigation brought by the Natural Resources Defense Council (NRDC). There is one of several FOIA requests seeking communications between EPA staff and the Trump Presidential Transition Team. The attached transition briefing paper(s) are responsive to NRDC's FOIA and others, and your office has been identified as the lead program or regional office associated with the document(s). These constitute a subset of approximately 91 briefing papers in this production that are being reviewed by other offices across the agency concurrently.

Please review, or have the relevant staff in your office review, these materials and the proposed disposition (release in full, withhold in full, or redact). Please let me know if you have any questions, concerns, or suggested changes to the proposed dispositions and redactions.

**I would like to have your review completed by COB Friday, December 1.**

Each paper is 2 to 3 pages in length. Here is a chart of the attached materials for your office and their proposed disposition:

<b>Briefing</b>	<b>Lead Office</b>	<b>Law Office</b>	<b>Disposition</b>
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You will note that these materials were marked "internal deliberative pre-decisional." These markings, while helpful context, do not control the status of the document. Despite any markings, EPA is still required to review each document and to perform what is known as a "segregability" analysis under FOIA, which requires us to perform a line-by-line review of the document and determine if any portion is releasable. In general, where documents contain significant amounts of purely factual or background material, any exempt materials should be redacted but the rest should be released.

We found that most contain releasable background or factual information. In a few cases, we have proposed that a briefing paper be withheld in full or released in full. In general, we redacted the "Upcoming Milestones" and "Moving Forward" sections as deliberative material under FOIA Exemption 5. Additional redactions have been suggested where we believe an exemption applies.

Your office's subject matter expertise regarding these documents will help ensure that our decisions on what to release, withhold, or redact are defensible and appropriate. Should you have any questions regarding whether a FOIA exemption may or may not apply to any particular content, please feel free to contact me. CC'd on this email are the associate and/or deputy associate general counsel for the relevant law office(s) within OGC for the topics in these briefing papers. They also may be able to assist in your review and are welcome to consult with me should they have any questions.

Thank you for your time, attention, and diligence in this matter.

Sincerely,

Dan

Daniel Schramm

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